

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ORLANDO BETHEL, and)
GLYNIS BETHEL)
Plaintiffs,)
vs.) CIVIL ACTION NO. 06-0610-CG-B
THE CITY OF SELMA, ALABAMA, et al.,)
Defendants.)

ORDER

This matter is before the court on plaintiffs' motion to object and appeal the Magistrate Judge's order of October 18, 2006 (Doc. 7), and plaintiffs' motion for recusal of Magistrate Judge Sonja F. Bivins (Doc. 8). For the reasons stated below, the court finds that both motions are due to be denied and that the Magistrate's order of October 18, 2006 is due to be affirmed.

The court notes that Judge Steele of this court recently ruled on virtually identical motions filed by the same plaintiffs in another case, Bethel et al. v. The Town of Loxley, et al., 06-573-WS-M. Both the Loxley case and the instant case allege various constitutional violations arising from plaintiffs' street-preaching activities in this judicial district. In the Loxley case, Magistrate Judge Milling entered an order denying plaintiffs' motion to proceed without prepayment of fees and costs and ordered plaintiffs to pay the requisite \$350 filing fee. (Id. at Doc. 9). As in this case, plaintiffs appealed the Magistrate Judge's order to the District Judge and moved for recusal of the Magistrate Judge. (Id. at Docs. 10, 11). District Judge William H. Steele denied plaintiffs' motion to object and appeal and affirmed the Magistrate's order, finding that:

After careful review of Magistrate Judge Milling's Order and plaintiffs' arguments appealing same, the undersigned concludes the decision denying plaintiffs leave to proceed without prepayment of fees and costs was neither

clearly erroneous nor contrary to law. Plaintiffs' objections alternately rest on a misreading of Judge Milling's Order and seek to overturn that Order by including new information about plaintiffs' income and expenses that they did not furnish previously even though they could have done so.

(Id. at Doc 12, p. 2). Judge Steele also denied plaintiffs' motion for recusal explaining that “[m]ere adverse rulings do not constitute the sort of pervasive bias that necessitates recusal.” (Id. at p. 4).

The court finds that the circumstances of the instant case are analogous, if not identical, to that of the Loxley case. Magistrate Judge Bivin's decision denying plaintiffs leave to proceed without prepayment of fees and costs was neither clearly erroneous nor contrary to law.

As to plaintiffs' motion for recusal of Magistrate Judge Bivins, the court finds it is also due to be denied. As in the Loxley case, plaintiffs seek recusal because they disagree with the Magistrate Judge's ruling. Plaintiffs have failed to show that Magistrate Judge Bivins harbored any bias or personal prejudice. Such a showing falls well short of the necessary threshold for recusal or disqualification of Magistrate Judge Bivins. See Draper v. Reynolds, 369 F.3d 1270, 1281-82 (11th Cir. 2004) (district court did not err in denying motion to disqualify under § 144 where movant presented no evidence that judge harbored a personal bias or prejudice either against him or in favor of any adverse party).

CONCLUSION

For the reasons stated above, plaintiffs motions to object and appeal the Magistrate Judge's order of October 18, 2006 (Doc. 7) and for recusal of Magistrate Judge Sonja F. Bivins (Doc. 8) are **DENIED** and the Magistrate's order of October 18, 2006 (Doc. 7) is hereby

AFFIRMED.

DONE and ORDERED this 28th day of November, 2006.

/s/ Callie V. S. Granade
CHIEF UNITED STATES DISTRICT JUDGE